

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, June 7, 2023

Hearing Room 301

9:30 AM

1: -

Chapter

#0.00 Unless other arrangements have been made in advance with the Court, all appearances for this calendar will be via Zoom and not via Court Call. [See Judge Kaufman's posted procedures titled "phone/video appearances" on the Court's webpage.]
All parties participating in these hearings may connect from the zoom link listed below. This service is free of charge. You may participate using a computer or telephone.

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Docket 0

Tentative Ruling:

- NONE LISTED -

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9:30 AM

1:23-10658 Alina Paz

Chapter 7

#1.00 Motion for relief from stay

GRACH AMBARTSUMYAN
VS
DEBTOR

Docket 27

Tentative Ruling:

For the reasons discussed below, the Court will grant movant relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2). Also, pursuant to 11 U.S.C. §§ 105(a) and 362, the Court will grant movant's request for in rem relief as to the real property at issue.

I. BACKGROUND

On May 1, 2023, Alina Paz ("Debtor") filed a voluntary chapter 7 petition. This commenced the Debtor's second bankruptcy case filed within one year. The deadline to file schedules and statement of financial affairs was May 25, 2023. To date, Debtor has not filed her schedules and statement of financial affairs.

In her petition, Debtor represented that she lives at 358 Madrid Street, San Francisco, California 94112. She listed her mailing address as 8032 Burnet Avenue, Panorama City, California 91402 (the "Property"). This case is at least the seventh bankruptcy case filed in the past year involving the Property. On May 17, 2023, Grach Ambartsumyan ("Movant") filed a *Motion for Relief from the Automatic Stay or for Order Confirming that the Automatic Stay does not Apply Under 11 U.S.C. § 362(l) (Unlawful Detainer)* (the "Motion") [doc. 27].

A. The Property

On July 8, 2022, Redwood Holdings LLC sold the Property to Movant. Thereafter, Movant served a notice to quit on Alejandra Paz, Toribio Paz, Dora Lopez and Juan Lopez, the occupants of the Property (the "Occupants"). As a result of the Occupants' refusal to comply with the notice, Movant filed an unlawful detainer complaint in the Los Angeles Superior Court. The trial in the unlawful detainer proceeding has been

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continued on several occasions because of the multiple bankruptcy cases affecting the Property. Most recently, the trial was continued to May 23, 2023. Movant's Declaration in Support of the Motion, p. 8.

B. Bankruptcy Cases Affecting the Property

Since July 2022, Debtor and the Occupants have filed numerous bankruptcy cases affecting the Property. Except for the current case, all of these cases have been filed in the Northern District of California, and all of these cases were dismissed.

On July 5, 2022, Dora Lopez filed a chapter 7 petition, commencing case no. 22-30328. On July 29, 2022, because Ms. Lopez failed to file missing documents, the bankruptcy court entered an order dismissing the case. Motion, Exh. E.

On July 27, 2022, Juan Lopez filed a chapter 7 petition, commencing case no. 22-30379. On August 11, 2022, because Mr. Lopez failed to file missing documents, the bankruptcy court entered an order dismissing the case. Motion, Exh. F.

On November 30, 2022, Debtor filed a chapter 7 petition, commencing case no. 22-30654. On December 16, 2022, because Debtor failed to file missing documents, the bankruptcy court entered an order dismissing the case. Motion, Exh. G.

On December 29, 2023, Alejandra Paz filed a chapter 7 petition, commencing case no. 22-30704. On January 17, 2023, because Ms. Paz failed to (1) file missing documents, (2) provide a social security number and (3) pay the case filing fee, the bankruptcy court entered an order dismissing the case. Motion, Exh. H.

On February 3, 2023, Toribio Paz filed a chapter 7 petition, commencing case no. 23-30073. On February 27, 2023, because Mr. Paz failed to (1) file missing documents, (2) provide a social security number and (3) pay the case filing fee, the bankruptcy court entered an order dismissing the case. Motion, Exh. I.

On March 1, 2023, Jussen Unzel and Dora Lopez filed a chapter 7 petition, commencing case no. 23-30113. On March 16, 2023, because Mr. Unzel and Ms. Lopez failed to (1) file missing documents, (2) provide a social security number and (3) pay the case filing fee, the bankruptcy court entered an order dismissing the case. Motion, Exh. J.

C. The Motion

On May 17, 2023, Movant filed the Motion pursuant to 11 U.S.C. §§ 362(d)(1) and

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(d)(2). [doc. 27]. Movant states that the Debtor's right to possession of the Property should be terminated because the lease matured or was rejected on September 1, 2022 and Movant served a notice to quit on Debtor. Furthermore, Movant asserts the Property is not necessary to an effective reorganization because it is a residential property that is not producing income. Finally, Movant argues that Debtor filed her case in bad faith because the case is part of a scheme of multiple filings to defraud Movant. Movant requests the Court grant in rem relief pursuant to § 105(a) and § 362(d)(1). To date, Debtor has not filed a response to the Motion.

II. DISCUSSION

Pursuant to 11 U.S.C. § 362(d) –

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying or conditioning such stay –

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest[.]

A decision to lift the automatic stay is within the discretion of the bankruptcy court. *In re MacDonald*, 755 F.2d 715, 716 (9th Cir. 1985).

A debtor's bad faith in filing a bankruptcy case can be cause for granting relief from stay. *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). "Bad faith depends on an amalgam of factors and no specific factor is determinative." *In re Sunshine Group, LLC*, 2020 WL 1846940, at *7 (9th Cir. BAP Apr. 10, 2020). "A finding of bad faith is made on a case by case basis, there is no list of factors which must be present in each case to make the finding, and the weight given to any particular factor depends on the circumstances of the individual case." *Id.* Once a creditor makes a prima facie showing of bad faith, "[t]he burden, thereafter, is on the debtor to establish good and sufficient reasons why the relief should not be granted." *In re Yukon Enterprises, Inc.*, 39 B.R. 919, 921 (Bankr. C.D. Cal. 1984).

The Ninth Circuit Court of Appeals has found that in some circumstances "unwary creditors may suffer losses at the hands of debtors who abuse the multiple filing opportunities provided by Chapter 13." *In re Fernandez*, 212 B.R. 361, 368 (Bankr. C.D. Cal. 1997); citing *In re Nash*, 765 F.2d 1410, 1414 (9th Cir. 1985). Moreover, "under some circumstances bad faith may be established by evidence that a debtor has

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filed successive bankruptcy petitions primarily to gain the benefit of successive automatic stays." *Id.*, citing *In re Can-Alta Props., Ltd.*, 87 B.R. 89, 91 (9th Cir. BAP 1988).

Courts retain "the power to grant in rem relief pursuant to § 105(a)." *In re Robles*, 2014 WL 3715092, *1 (Bankr. N.D. Cal. July 24, 2014); citing *In re McCray*, 342 B.R. 668, 669 (Bankr. D.D.C. 2006). "Section 105(a) allows the Court to issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." *Id.* "In *McCray*, the court observed that Congress has given no indication that it intended to preclude bankruptcy courts from using § 105(a) to enter orders, when necessary and appropriate, to prevent the harm arising from abusive filings." *Id.*

Here, the Court concludes that Movant is entitled to in rem relief because of Debtor's bad faith filing, which is one of multiple bankruptcy cases that have impacted the Property. In addition to this case, there are six other bankruptcy cases that involved the Property which have been dismissed. In each of the prior cases, the debtors failed to file mandatory schedules and statements. This case is the same. Debtor has yet to file her schedules and statements.

It is apparent that Debtor filed this case to prevent the unlawful detainer action from moving forward and that Debtor has no intention of properly prosecuting this case. Therefore, pursuant to § 105(a) and § 362(d)(1), the Court will grant relief Movant's request for in rem relief.

III. CONCLUSION

The Court will grant relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2). Also, pursuant to §§ 105(a) and 362(d)(1), the Court will grant Movant's request for in rem relief.

The order is binding in any other bankruptcy case purporting to affect the Property filed not later than 2 years after the date of entry of such order, except that a debtor in a subsequent case may move for relief from the order based upon changed circumstances or for good cause shown, after notice and hearing.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Any other request for relief is denied.

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Movant must submit the order within seven (7) days.

Party Information

Debtor(s):

Alina Paz

Pro Se

Movant(s):

Grach Ambartsumyan

Represented By
Lior Katz

Trustee(s):

Amy L Goldman (TR)

Pro Se

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1:23-10393 Dora A Reyes Palencia

Chapter 7

#2.00 Motion for relief from stay [PP]

TOYOTA LEASE TRUST
VS
DEBTOR

Docket 7

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Dora A Reyes Palencia

Pro Se

Movant(s):

Toyota Lease Trust as service as

Represented By
Kirsten Martinez

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Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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1:22-11212 Gabriella Noemi Loos

Chapter 13

#3.00 Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 44

***** VACATED *** REASON: Order on stipulation for adequate
protectioin entered 6/2/23**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gabriella Noemi Loos

Represented By
Kevin T Simon

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:22-11317 Abraham Nunez

Chapter 13

#4.00 Motion for relief from stay [RP]

MIDFIRST BANK
VS
DEBTOR

Docket 31

***** VACATED *** REASON: No chambers copy of motion provided.
Motion is not on calendar.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Abraham Nunez

Represented By
Onyinye N Anyama

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:23-10270 Linda Ezor Swarzman

Chapter 11

#5.00 Motion for relief from stay [RP]

LEGACY LENDING, LLC
VS
DEBTOR

Stip resolving motion filed 5/26/23

Docket 89

***** VACATED *** REASON: Order approving stipulation entered
5/30/23.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Ezor Swarzman

Represented By
Susan K Seflin
Jessica Wellington
David Seror

Movant(s):

Legacy Lending, LLC

Represented By
Christopher M McDermott

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1:23-10655 Juan Manuel Arguelles-Zambrano

Chapter 13

#6.00 Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate
7054 Ethel Ave., North Hollywood, CA 91605

Docket 13

Tentative Ruling:

The Court will grant the motion on an interim basis up to the date of the continued hearing. The Court will continue this hearing to **9:30 a.m. on July 19, 2023.**

Prior to the continued hearing, the debtor must timely pay: (1) his June and July 2023 deed of trust payments to the objecting secured creditor in the amount of \$2,566.03 as to the real property located at 7054 Ethel Avenue, North Hollywood, California 91605; and (2) his June and July 2023 chapter 13 plan payments in the amount of \$1,605.00, as stated in the debtor's proposed chapter 13 plan [doc. 19].

No later than July 17, 2023, the debtor must file a declaration and corroborating documentary evidence which demonstrate that he timely made his required postpetition deed of trust and chapter 13 plan payments.

The debtor must submit an order within seven (7) days.

Party Information

Debtor(s):

Juan Manuel Arguelles-Zambrano

Represented By
Onyinye N Anyama

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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CONT... Juan Manuel Arguelles-Zambrano

Chapter 13

**United States Bankruptcy Court
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Wednesday, June 7, 2023

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2:00 PM

1:20-11006 Lev Investments, LLC

Chapter 11

#7.00 Post confirmation status conference re chapter 11, subchapter V case
fr, 7/16/20; 9/17/20; 12/10/20; 4/22/21; 10/21/21; 5/26/22; 11/17/22

Docket 1

***** VACATED *** REASON: On 4/20/23, the Court entered an order
granting entry of final decree and closing the case.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lev Investments, LLC

Represented By
David B Golubchik
Juliet Y Oh

Trustee(s):

Caroline Renee Djang (TR)

Pro Se